

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No 6923 of 1991
with
Civil Application No.4772 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO
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BABUBHAI SOMABHAI JADAV

Versus

OIL AND NATURAL GAS COMMISSION(NOTICE MAY BE SERVED THROUGH

Appearance:

1. Special Civil Application No. 6923 of 1991
MRS DT SHAH for Petitioner No. 1
..... for Respondent No. 1,3-4
MR AJAY R MEHTA for Respondent No. 2
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CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 20/09/2001

ORAL JUDGEMENT

The grievance of the petitioner in this petition is that his services are already terminated by an order dated 27.9.1991. It is prayed that the respondent-O.N.G.C. may be directed to treat the petitioner as in continuous service.

The petitioner is serving as a Helper and his

case is that the O.N.G.C. has terminated his services orally with effect from 27.9.1991. At the time of hearing of this petition, Mr.R.H. Mehta, appearing for the O.N.G.C., states that the concerned workman is employed by the Contractor and there is no privity of contract between the petitioner and the O.N.G.C. He states that no appointment order was given directly by the O.N.G.C. to him and, accordingly, his services are taken by the O.N.G.C. only through the concerned Contractor. In my view, such disputed facts cannot be decided by this Court in a petition under Article 226 of the Constitution of India. The petitioner should approach the appropriate forum under the Industrial Law and he can get his claim adjudicated by leading proper evidence. This Court, therefore, cannot entertain this petition in view of the serious disputed questions of fact involved in this petition.

Mr.Mehta, however, states that the O.N.G.C. will have no objection to offer work to the petitioner if he has been sent by the Contractor for discharging his duties. Mr.Mehta states that the O.N.G.C. will have no objection if the Contractor retains him in service and sends him for appropriate work. Mr.Mehta also fairly conceded that the O.N.G.C. will inform the new Contractor that they may continue the services of the present petitioner. Mr.Mehta has also assured the Court the O.N.G.C. will inform the Contractor accordingly so that the present petitioner may not starve in these hard days. Mr.Mehta also states that since one-and-half years, the petitioner is not reporting for duty. Mr. Brahmabhatt, learned Advocate for the petitioner, assured the Court that the petitioner will immediately report to the Contractor for the purpose of resumption of his duty. In that view of the matter, it is directed that the Contractor will continue to employ the present petitioner in service. Since rest of the things cannot be decided by this Court, as there are serious disputed questions of fact, the same are not adjudicated and it is for the petitioner to take appropriate proceedings in accordance with law.

It is also clarified that even if the present Contractor is changed, subsequent Contractor may continue the present petitioner. Mr.Mehta has also stated that the present contractor is in existence upto 2003 and that there would not be any cause for grievance so far as the petitioner is concerned at this stage, especially when O.N.G.C. is going to inform the Contractor to employ / continue to employ the present petitioner in service.

With these observations, the petition is disposed of. Rule is discharged with no order as to costs.

In view of the order passed in the main Special Civil Application, no further order need be passed in Civil Applicaiton No.4772 of 2001 and the same is also disposed of.

20th September, 2001 (P.B. Majmudar, J.)

(apj)